

*NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.*

**Tradesource Staffing and Plumbers and Gasfitters  
Local 12.** Case 1–CA–37771

March 31, 2000

**DECISION AND ORDER**

BY CHAIRMAN TRUESDALE AND MEMBERS FOX  
AND LIEBMAN

Pursuant to a charge and amended charge filed on December 16, 1999 and January 14, 2000, respectively, the General Counsel of the National Labor Relations Board issued a complaint on January 27, 2000, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to provide information following the Union's certification in Case 1–RC–20804. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint.

On March 3, 2000, the General Counsel filed a Motion for Summary Judgment. On March 8, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

In its answer the Respondent admits its refusal to bargain and to furnish information that is relevant and necessary to the Union's role as bargaining representative, but attacks the validity of the certification on the basis of the disposition of three determinative challenged ballots in the election.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

We also find that there are no issues warranting a hearing with respect to the Union's request for information. The Respondent admits that, by letter dated December 1, 1999, the Union requested that the Respondent furnish it with the following information:

A list of all workers, and payroll records, currently (and since 6/29/98) employed in the bargaining unit, including their full names, dates of hire, rates of pay, job classification, last known address [and] telephone number.

The Respondent's answer also admits that the foregoing information is relevant and necessary for the Union's role as the exclusive bargaining representative, but denies that the Union is the lawful exclusive collective-bargaining representative of the unit employees.

Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a corporation with an office and place of business in Woburn, Massachusetts, has been engaged in providing skilled trades employees to employers in the construction industry.

During the calendar year ending December 31, 1999, the Respondent, in conducting its business operations, performed services valued in excess of \$50,000 in states other than the Commonwealth of Massachusetts and provided services valued in excess of \$50,000 for enterprises within the Commonwealth of Massachusetts that are directly engaged in interstate commerce.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

**A. The Certification**

Following the election held June 29, 1998, the Union was certified on November 17, 1999, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time plumbers employed in the cities and towns in Massachusetts set out in footnote 1 below, but excluding all other employees, guards, and supervisors as defined in the Act.<sup>1</sup>

<sup>1</sup> The unit in which we order the Respondent to bargain encompasses the employees described above who are employed in the following cities and towns (which were listed in Appendix A attached to the Regional Director's certification):

**Cities and Towns within Jurisdiction of Plumbers Union Local #12**

Acton	Hopedale	Saugus
Arlington	Hopkinton	Scituate
Ashland	Hudson	Sharon
Ayer	Hull	Sherborn
Bedford	Lexington	Somerville
Bellingham	Lincoln	Southboro
Belmont	Littleton	Stoneham
Billerica	Lowell	Stow
Boston	Lynn	Sudbury

The Union continues to be the exclusive representative under Section 9(a) of the Act.

### B. Refusal to Bargain

About December 1, 1999, the Union, by letter, requested the Respondent to recognize and bargain and to furnish information, and, since about December 1, 1999, the Respondent has failed and refused. We find that this failure and refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

### CONCLUSIONS OF LAW

By failing and refusing on and after December 1, 1999, to recognize and bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

### REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*,

149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

### ORDER

The National Labor Relations Board orders that the Respondent, Tradesource Staffing, Woburn, Massachusetts, its officers, agents, successors, and assigns, shall

#### 1. Cease and desist from

(a) Refusing to bargain with Plumbers and Gasfitters Local 12, as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

#### 2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment, and if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time plumbers employed in the cities and towns in Massachusetts set out in footnote 1 of this decision, but excluding all other employees, guards, and supervisors as defined in the Act.

(b) Furnish the Union the information that it requested on December 1, 1999.

(c) Within 14 days after service by the Region, post at its facility in Woburn, Massachusetts, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 1, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since December 1, 1999.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a re-

Boxboro	Lynnfield	Swampscott
Braintree	Malden	Tewksbury
Brookline	Marlboro	Tyngsboro
Burlington	Maynard	Wakefield
Cambridge	Medfield	Walpole
Canton	Medford	Waltham
Carlisle	Medway	Watertown
Chelmsford	Melrose	Wayland
Chelsea	Millis	Wellesley
Cohasset	Milton	Westford
Concord	Nahant	Weston
Dedham	Natick	Westwood
Dracut	Needham	Weymouth
Dover	Newton	Wilmington
Dunstable	Norfolk	Winchester
Everett	No. Reading	Winthrop
Foxboro	Norwood	Woburn
Forge Village	Plainville	Wrentham
Framingham	Pepperell	Islands of
Franklin	Quincy	Boston Harbor
Graniteville	Reading	Long Island
Hingham	Readville	Boston Harbor
Holliston	Revere	

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

sponsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. March 31, 2000

John C. Truesdale,	Chairman
Sarah M. Fox,	Member
Wilma B. Liebman,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Plumbers and Gasfitters Local 12, as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time plumbers employed in the cities and towns in Massachusetts set out in the Board's Decision and Order, but excluding all other employees, guards, and supervisors as defined in the Act.

WE WILL furnish the Union the information it requested on December 1, 1999.

TRADESOURCE STAFFING